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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,251	09/07/2001	Bernard Vallee	1490	2488

7590 09/25/2002

Henry M Bissell
6820 La Tijera Blvd Suite 106
Los Angeles, CA 90045

EXAMINER

BURNHAM, SARAH C

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,251

Applicant(s)

VALLEE, BERNARD

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for foreign priority based on a foreign application 9903282 filed in France on March 17, 1999. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The prior art cited in the International Search Report for application number PCT/FR 00/00588 completed on June 5, 200 has been considered as to the merits.

Oath/Declaration

3. The oath is objected to because it does not state the applicant as being either the "sole" or "joint" inventor of the disclosed invention.

Specification

4. The disclosure is objected to because of the following informalities:

- On page 4 line 38, it appears as if the word "aeroplane" should be replaced with the word "airplane."

Appropriate correction is required.

Claim Objections

5. Claim 7 is objected to because of the following informalities:
- It appears as if the phrase "an other" should be replaced with the word "another."

Appropriate correction is requested.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1 recites "a horizontal axle" in line 7 and "a fixed horizontal axle" in line 12. It is unclear if both recitations are referring to the same element.
- Claim 2 recites the limitation "the distance" in line 20. There is insufficient antecedent basis for this limitation in the claim.
- Claim 5 recites the limitation "the piece" in line 31. There is insufficient antecedent basis for this limitation in the claim.
- Claim 5 recites the limitation "the position" in lines 32-33. There is insufficient antecedent basis for this limitation in the claim.
- Claim 8 recites the limitation "the length" in line 9. There is insufficient antecedent basis for this limitation in the claim.

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- Claim 8 recites the limitation "that part" in line 9. There is insufficient antecedent basis for this limitation in the claim.
- Claim 9 recites "the diameter" in line 11. There is insufficient antecedent basis for this limitation in the claim.
- Claim 10 recites the limitation "the vertical" in line 14. There is insufficient antecedent basis for this limitation in the claim.
- Claim 10 recites the limitation "the horizontal forces" in line 18. There is insufficient antecedent basis for this limitation in the claim.
- Claim 10 recites the limitation "the weight" in line 19. There is insufficient antecedent basis for this limitation in the claim.
- Claim 10 recites the limitation "the user" in line 19. There is insufficient antecedent basis for this limitation in the claim.
- Claims 3-4, 6-7 and 11 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3-4, 6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherman (3,594,037). Sherman reveals a cabin attendant chair with a

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seat (20), an underframe (10) with a longitudinal axis extending from the upper right hand corner of underframe (10) in Figure 2 to the lower left hand corner, a backrest (46) and a fixed horizontal axle (24). Seat (20) comprises a first part (26) and a second part (32)(38). The second part (32)(38) is received through a rectangular opening located above panel (18) within underframe (10). The length of the portion of the second part (32)(38) received within underframe (10) is smaller than the diameter of underframe (10) given that no portion of second part (32)(38) extends out the backside of underframe (10). Underframe (10) contains a gas strut (40). Horizontal axle (24) is carried by an intermediate part in the form of an arm (50) fixed to the longitudinal axis of underframe (10) and rotatable about pivot point (30). Figure 2 reveals by means of phantom lines how the distance from horizontal axle (24) to the longitudinal axis of underframe (10) is variable.

The longitudinal axis lies parallel to the backrest (46) and connects the upper right corner of under frame (10) in Figure 2 with the lower left corner of underframe (10). Given that the figure reveals an underframe (10) whose width is approximately equal to one-fifth its height, the angle of the longitudinal axis is approximately 11° ($\tan^{-1}(1/5) = 11.3^\circ$). The underframe (10) has a first part defined by side supports (12) and a second part (56)(54) telescopically received within the first part defined by side supports (12). The first part defined by side supports (12) takes up the vertical forces exerted by an occupant sitting on seat (20). The second part (56)(54) takes up the horizontal forces exerted by a seat occupant resting their head against the second part (56)(54).

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Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (3,594,037) as applied to claim 1 above, and further in view of Vander Stel et al. (5,026,118). As described above, Sherman discloses all claimed elements except a distance between the longitudinal axis and the horizontal axle in the range of 2 to 15 cm and a rail.

Vander Stel et al. reveals a foundation (37) that forms a "two inch deep basket" (column 3, line 6). The back of foundation (37) corresponds with the longitudinal axis of the seating unit. Figure 3 reveals a horizontal axle (35) which is located approximately twice the width of basket (37) from the longitudinal axis. Horizontal axle (35) is therefore approximately 4 inches (6.16 cm) from the longitudinal axis. Vander Stel et al. also reveals a rail (60)(61)(63) which alters the position of horizontal axle (35) with respect to seat (17) based on the angle at which element (41) is deployed.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the cabin attendant seat of Sherman with the teachings of Vander Stel et al. The modification of limiting a distance between the longitudinal axis and the horizontal axle to a range of 2-15 cm would ensure that the seat has a very narrow profile and can be installed in cramped areas such as airplane galleys. The

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inclusion of a rail would allow for greater seat adjustment capabilities and therefore more comfort for the seat occupant.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (3,594,037) as applied to claim 1 above, and further in view of Cluff (1,231,129). As disclosed above, Sherman shows all claimed elements except a rail secured to the seat to allow an arm to slide.

Cluff teaches the use of rails (26) secured to seat (12). Arms (29) slide to different positions within rails (26) depending upon the angle of the seat.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the cabin attendant seat of Sherman with the teachings of Cluff. Incorporating a rail into the side of Sherman's cabin attendant seat would allow the horizontal axle to move based on the angle of the seat, therefore providing support at a variety of seat angles and increasing the comfort of the user.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman (3,594,037) as applied to claim 1 above, and further in view of Betherum (928,929). As disclosed above, Sherman reveals all claimed elements except a work surface.

Betherum teaches the incorporation of a work surface (14) within a telescopically received second element (13) of an underframe (5).

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the cabin attendant seat of Sherman with the teachings of Betherum. The incorporation of a work surface on the backside of Sherman's cabin attendant seat would provide a convenient additional surface area for preparing food for flight passengers.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to flip up chairs with working surfaces attached to seat backs:

- Yamazaki (EP 0 518 346 A1)

The following patents are cited to further show the state of the art with respect to flip up chairs incorporating gas cylinders:

- Crossman (4,458,942)

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-308-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

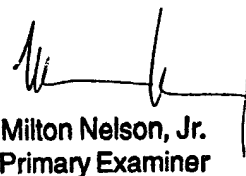
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

SCB
September 19, 2002



Milton Nelson, Jr.
Primary Examiner